

ENTERED

June 28, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ADESNUMBO ADEGBENRO,

Plaintiff,

VS.

BANK OF AMERICA, N.A.,

Defendant.

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CIVIL ACTION NO. 4:22-CV-00828

ORDER

Before the Court is United States Magistrate Judge Yvonne Y. Ho's Memorandum and Recommendation filed on June 12, 2023. Doc. #43. The deadline for filing objections has passed, and no objections have been filed. Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Memorandum and Recommendation for clear error. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no clear error, the Court adopts the Memorandum and Recommendation in its entirety.

Accordingly, Defendant's Motion to Strike (Doc. #37) Plaintiff's Cross Motion for Summary Judgment—filed as Doc. #36—is GRANTED. Additionally, Defendant's Motion to Strike (Doc. #42) Plaintiff's additional Cross Motion for Summary Judgment—filed as Doc. #40—is GRANTED. Lastly, Defendant's Motion for Summary Judgment (Doc. #34)¹ is GRANTED IN PART with respect to Plaintiff's claims for quiet title (Claim 2), conspiracy to defraud (Claim 4),

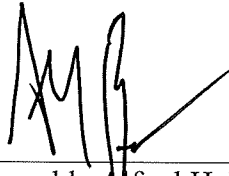
¹ Defendant's Rule 12(c) Motion for Judgment on the Pleadings (Doc. #15) was converted into a motion for summary judgment to be resolved in conjunction with Defendant's explicit Motion for Summary Judgment (Doc. #34).

breach of the implied or express covenants of good faith and fair dealing (Claim 5), wrongful foreclosure (Claim 7), under the Texas Deceptive Trade Practices Act (Claim 8), negligence (Claim 9), and most of his breach-of-contract theories (Claim 3). Defendant's Motion for Summary Judgment (Doc. #34) is DENIED IN PART with respect to Plaintiff's breach of contract theory that Bank of America improperly charged inspection fees (Claim 3), Plaintiff's TILA and RESPA claims (Doc. #1, Ex. 2 at 3–4, 6, 13 ¶¶ 7–14, 27, 43 & n.1), and Plaintiff's requests for declaratory and injunctive relief (Claims 1 and 10).

It is so ORDERED.

JUN 27 2023

Date

A handwritten signature in black ink, appearing to be 'A. H. Bennett', written over a horizontal line.

The Honorable Alfred H. Bennett
United States District Judge